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10/645,060

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Olaseni B. Duro-Emanuel

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EXAMINER

RANKINS, WILLIAM E

ART UNIT

PAPER NUMBER

3696

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/645,060	Applicant(s) DURO-EMANUEL ET AL.	
	Examiner WILLIAM E. RANKINS	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Claims 1-34 have been withdrawn. New claims 35-66 have been entered and are pending in this application.

Response to Argument

The newly presented claims comply with 35 U.S.C. 101 and 112, first and second paragraph. In particular, each of independent claims 35, 43, 51 and 59 recite statutory subject matter, as it is directed to a process with a practical application, namely, the act of crediting. In addition, such claims comply with 35 U.S.C. 112, first paragraph, as the specification enables a process for providing liquidity to a financial transaction as an alternative to bank-provided liquidity. Finally, such claims recite a method for providing liquidity to a financial transaction, including the steps by which this is accomplished (i.e., by crediting payments in a particular way); thus, these claims comply with 35 U.S.C. 112, second paragraph.

Independent claims 35, 43, 51 and 59 are also patentable over the prior art of record. The Examiner cites Getlen to demonstrate a particular method of allocating payments to a credit card account (i.e., where a lower interest portion is paid in full prior to allocating payments to the higher interest portion). Getlen is non-analogous art, as

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credit cards on the one hand, and term notes/money market notes (i.e., commercial paper) on the other hand, are completely different types of financial instruments. In a credit card transaction, one would not even have need for the method claimed herein (i.e., a method for providing liquidity to a transaction).

The Examiner cites Corporate Finance to demonstrate an arrangement in which a money market fund is used as a repository for bond proceeds, but admits that it does not disclose any method of allocating a collection of principal for a term note to a money market note.

The Examiner cites Albulescu to demonstrate that the collection is for the principal of the term note. According to the Examiner, Albulescu discloses a sequential pay structure in a CDO where senior debt is paid down before junior debt using collateral principal payments. In contrast, the term note and the money market note claimed in independent claim 35 have the same credit risk rating (i.e., one is not junior to the other).

Because independent claims 35, 43, 51 and 59 are patentable, the claims which depend therefrom are likewise patentable for at least the foregoing reasons.

1. Applicant's arguments with respect to claims 35-66 have been considered but are moot in view of the new ground(s) of rejection.

A review of the claims and updated search necessitated the rejections below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 35-66 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In the present case the claim is directed toward the issuance or holding of a money market note, which is a contract and therefore an abstract idea. An abstract idea may be statutory if there is a practical application. However, as providing liquidity is in addition to issuing the money market note and not a step in the process, the practical application is therefore not provided. See MPEP 2106.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Fundamentals of Asset-Backed Commercial Paper, Bate et al., Moody's Investors Service, 2/3/2003, in view of Fitch IBCA Rates Secured Money Market Notes Backed by CMBS, Business Editors. Business Wire. New York: Jul 9, 1999, S&P Assigns Ratings to White Pine and \$20B Medium Term Note/CP Programs, PR Newswire. New York: Feb 4, 2002 and Asiamoney (Securitization—asset quality is the ticket for entry, SG Australia. London: Jul/Aug 2000.

As per claim 35;

Moody's discloses:

A method comprising:

in connection with a financial transaction in which a term note is issued, issuing a money market note (Pg. 42, Para. 8 and Pg. 44, Para. 3), providing liquidity to the financial transaction by, upon receiving a payment for principal of the term note (pg. 41, Para. 7);

Moody's does not disclose:

wherein the money market note and the term note have a same credit risk rating; and

crediting the payment to principal of the money market note if the principal of the money market note is not fully credited and crediting the payment to principal of the term note if the principal of the money market note is fully credited.

However, Business Editors discloses:

Money Market notes rated AA secured by LPTG CMBS AA rated notes (Pg. 1, Para's. 2 and 3) with a maturity of 25 months (Pg. 2, Para. 1).

As per claim 36;

Moody's discloses:

The method of claim 35 wherein the payment is held by a trust (pg. 25, paragraph 5).

As per claim 37;

Moody's does not disclose:

The method of claim 35 wherein the principal of the money market note and the principal of the term note are secured by an asset.

However, PR Newswire discloses (pg. 1 paragraph 5):

A term note as an asset-backed security.

Additionally, Business Editors discloses (Pg. 1, paragraph 3):

Money market notes are auction rate notes and are secured.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Moody's, PR Newswire and Business Editors. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to provide an alternate source of liquidity.

As per claim 38;

Moody's does not disclose:

The method of claim 37 wherein the asset is an account receivable.

However, Asiamoney discloses (see "how to access term funding"):

Short term assets as accounts receivables.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Moody's, PR Newswire, Business Editors and Asiamoney. One of ordinary skill in the art would be motivated to do so in order to securitize the notes.

As per claim 39;

Moody's discloses (pg. 53, paragraph 1):

The method of claim 35 wherein the money market note is selected from the group consisting of commercial paper, extendible asset-backed commercial paper and an extendible asset-backed liquidity note.

As per claim 40;

Moody's discloses (Pg. 54, paragraph 2):

The method of claim 35 wherein the term note comprises a provision to receive interest at an interest rate during a term period.

As per claim 41;

Moody's discloses:

The method of claim 40 wherein the term note further comprises a provision for extending the term period for an extended term period if the principal of the term note is not fully credited by an expiration of the term period (Pg. 44, Para. 1).

As per claim 42;

Moody's discloses:

The method of claim 41 wherein the term note further comprises a provision for increasing the interest rate during the extended term period (Pg. 53, Para. 2).

Claim 43 is rejected under the same rationale used to reject claim 35.

Claim 44 is rejected under the same rationale used to reject claim 36.

Claim 45 is rejected under the same rationale used to reject claim 37.

Claim 46 is rejected under the same rationale used to reject claim 38.

Claim 47 is rejected under the same rationale used to reject claim 39.

Claim 48 is rejected under the same rationale used to reject claim 40.

Claim 49 is rejected under the same rationale used to reject claim 41.

Claim 50 is rejected under the same rationale used to reject claim 42.

Claim 51 is rejected under the same rationale used to reject claim 35.

Claim 52 is rejected under the same rationale used to reject claim 36.

Claim 53 is rejected under the same rationale used to reject claim 37.

Claim 54 is rejected under the same rationale used to reject claim 38.

Claim 55 is rejected under the same rationale used to reject claim 39.

Claim 56 is rejected under the same rationale used to reject claim 40.

Claim 57 is rejected under the same rationale used to reject claim 41.

Claim 58 is rejected under the same rationale used to reject claim 42.

Claim 59 is rejected under the same rationale used to reject claim 35.

Claim 60 is rejected under the same rationale used to reject claim 36.

Claim 61 is rejected under the same rationale used to reject claim 37.

Claim 62 is rejected under the same rationale used to reject claim 38.

Claim 63 is rejected under the same rationale used to reject claim 39.

Claim 64 is rejected under the same rationale used to reject claim 40.

Claim 65 is rejected under the same rationale used to reject claim 41.

Claim 66 is rejected under the same rationale used to reject claim 42.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Rankins whose telephone number is 571-270-3465. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, off alt Fridays beg 6/15/07.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. E. R./
Examiner, Art Unit 3696, 2/16/08

/Daniel S Felten/

Primary Examiner, Art Unit 3696